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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,994	05/08/2000	MASAKI YUI	KP-8753	9126
466	7590	11/19/2003	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			SCHNIZER, HOLLY G	
			ART UNIT	PAPER NUMBER

1653

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 09/509,994	<b>Applicant(s)</b> YUI ET AL.	
	<b>Examiner</b> Holly Schnizer	<b>Art Unit</b> 1653	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 21 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 21 July 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

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Continuation of 2. NOTE: New Claims 61, 62, and 63 raise the new issue of obviousness that would require further search since Kunihiro et al. does not expressly disclose packaging the container filled with the aqueous solution in a sheet or in a carton. Moreover, the addition of the limitation of packaging said container in a sheet or carton would raise the issue of new matter since such a step has not been disclosed previously in the Specification. New Claim 64 raises the new issue of indefiniteness since it lacks antecedent basis for "aqueous method".

Continuation of 5. does NOT place the application in condition for allowance because: New Claims 60-71 would be rejected under 35 U.S.C. 112 second paragraph for similar reasons as stated in the previous Office Action-- they are drawn to a method of storing/transporting yet do not contain a step carrying out the storing or transporting. The only apparent difference between new claims 47-59 and the product claims examined in the prior Office Action is that the new claims add how the product will be used or how the product will be contained. As stated in the previous Office Actions, the product of Kunihiro et al. contains the same components as the claimed products and therefore, absent evidence of any components that distinguish the claimed product from Kunihiro et al. or any evidence that the container used to store or transport the claimed product changes it such that it can be patentably distinguished from Kunihiro et al., the claimed products are not patentably distinguishable over the prior art product. Claims 47-59 are drawn to products and not methods of packaging them or storing them or the containers in which they are placed (see Final Rej. mailed 2-21-03 para. bridging pp. 5-6). The additional limitation of Claim 60 that the aqueous solution further comprises a surfactant does not overcome the prior art rejection of Kunihiro et al. since Kunihiro et al. teaches that the thrombomodulin solution contains a surfactant (see Kunihiro et al. Col. 9, lines 46-49 and Office Action mailed 2-21-03, p. 4, line 10-1). Claims 63-71 do not appear to be changed from the previously rejected claims. Claims 61 and 62 raise the new issue of new matter and obviousness.